

REMARKS

As a preliminary matter, Applicant thanks the Examiner for the courtesies extended during the recent telephonic interview held on June 29, 2010. The remarks, arguments and amendments herein include the substance of that interview.

By this amendment claims 1, 7 and 19 have been amended.¹ Accordingly, claims 1-3, 7-12, 19-20, and 22-27 are pending, of which claims 1, 7 and 19 are the only independent claims at issue.

Rejections Under 35 USC 101

Claims 19, 20, 23, 25 and 27 were rejected under 35 U.S.C. § 101 for reciting non-statutory subject matter. Claim 19 has been amended to recite "[a] computer-readable non-volatile memory medium" as suggested by the Examiner. Accordingly, Applicants respectfully request that the 35 U.S.C. § 101 rejection of claims 19, 20, 23, 25 and 27 be withdrawn.

Rejections Under 35 USC 112

Claims 1-3, 7-12, 19, 20 and 22-27 were rejected under 35 U.S.C. § 112, first paragraph, for failing to comply with the written description requirement. Claims 1, 7 and 19 have been amended to in a fashion supported by the specification.

35 USC 112 first paragraph states "The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable *any person skilled in the art* to which it pertains, or with which it is most nearly connected, to make and use the same...." In this particular art, namely the computer science arts, the ordinary person of skill has a relatively high level of skill.

The claims have been amended to comport with the specification, in view of that high level of skill. The example illustrated by Figure 4 both defines an affinity region and describes how such a region is created. In particular, paragraph [25] states that an affinity region is a section of visual design surface that contains design elements having a common characteristic represent by a common aura. Paragraph [25] further illustrates how an affinity region is created stating that "[m]erged auras 404 and 406 constitute affinity regions." Figure 5 and the description of paragraph [25] further illustrate grouping design elements into affinity regions.

¹ Support for the amendments to the claims and for the new claims is found throughout the specification and previously presented claims, including but not limited to paragraphs [25] and Figures 3-5.

The claims as now amended recite this functionality namely, merging to create affinity regions (elements (e) of claims 1, 7 and 19) and grouping into affinity regions (elements (f) of claims 1, 7, and 19). One of skill in the art would have been enabled to create affinity regions by merging and then group design elements into the appropriate affinity region as shown. The Examiner seemed to agree with this position in the recently conducted telephonic interview. Accordingly, Applicants respectfully request that the 35 U.S.C. § 112, first paragraph, rejection of claims 1-3, 7-12, 19, 20 and 22-27 be withdrawn.

In view of the foregoing, Applicant respectfully submits that the other rejections to the claims are now moot and do not, therefore, need to be addressed individually at this time. It will be appreciated, however, that this should not be construed as Applicant acquiescing to any of the purported teachings or assertions made in the last action regarding the cited art or the pending application, including any official notice. Instead, Applicant reserves the right to challenge any of the purported teachings or assertions made in the last action at any appropriate time in the future, should the need arise. Furthermore, to the extent that the Examiner has relied on any Official Notice, explicitly or implicitly, Applicant specifically requests that the Examiner provide references supporting the teachings officially noticed, as well as the required motivation or suggestion to combine the relied upon notice with the other art of record.

In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney at (801) 533-9800.

Dated this 12th day of July, 2010.

Respectfully submitted,

/J. LAVAR OLDHAM/

RICK D. NYDEGGER
Registration No. 28,651
J. LAVAR OLDHAM
Registration No. 53,409
Attorneys for Applicant
Customer No. 47973

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